

fw



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/683,642	01/29/2002	Albert Nazipovich Shigapov	200-1206 DP	6273

28391 7590 03/12/2003

KILLWORTH, GOTTMAN, HAGAN & SCHAEFF, L.L.P.  
ONE DAYTON CENTRE  
ONE SOUTH MAIN STREET, SUITE 500  
DAYTON, OH 45402-2023

EXAMINER

TRAN, DIEM T

ART UNIT	PAPER NUMBER
----------	--------------

3748

DATE MAILED: 03/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/683,642

Applicant(s)

SHIGAPOV ET AL.

Examiner

Diem Tran

Art Unit

3748

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 and 22-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20,22-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

-This office action is in response to the amendment filed on 12/17/02. In this amendment, claims 1, 10, 24-26 have been amended and claim 21 has been canceled.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 4, 10, 17, 18, 22, 24, 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murachi et al. (US Patent 5,746,989) in view of Deebe et al. (US Patent 6,375,910).

Regarding claims 1, 10, 17, 24, 25, Murachi discloses a diesel exhaust gas treatment system comprising:

an oxidation catalyst (5) positioned in an exhaust gas passage of a diesel engine for converting at least a portion of NO contained in said exhaust gas to NO<sub>2</sub> ;

said oxidation catalyst comprising platinum (see col. 3, lines 66-67; col. 4, lines 1-4); and a particulate filter for receiving said exhaust gas (7) (see Figure 1); however, fails to disclose said oxidation catalyst comprising a support material being zirconia-silica and converting a portion of NO to NO<sub>2</sub> at a temperature between about 175°C to 250°C. Deebe teaches that it is conventional in the art, to utilize an oxidation catalyst

comprising platinum on a support material being zirconia-silica and having temperature efficiency conversion being between 79 °C -204 °C (see col. 3, lines 8-17).

It would have been obvious to one having ordinary skill in the art at the time the invention was made, to have utilized the oxidation catalyst as taught by Deeba in the Murachi device, since the use thereof would have improved the performance of the catalyst.

Regarding claim 2, Murachi further discloses said oxidation catalyst is positioned between said exhaust passage and said particulate filter (see Figure 1).

Regarding claims 4, 18, Murachi further discloses a second catalyst (9) positioned downstream from said particulate filter (7) (see Figure 1).

Regarding claim 22, the modified Murachi system further discloses said conversion of oxidation catalyst occurs at a temperature of between about 79° to 204°C. These limitations merely recite the operation range of virtually all oxidizing catalysts and as such, would have been obvious to one having ordinary skill in the art.

3. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Murachi et al. (US Patent 5,746,989) in view of Deeba et al. (US Patent 6,375,910) as applied to claim 1 above, and further in view of Manson (US patent 6,248,689).

The modified Murachi system discloses all the claimed limitations as discussed in claim 1 above; however, fails to disclose said oxidation catalyst being combined with said particulate filter. Manson teaches that it is conventional in the art, to utilize an oxidation catalyst being combined with said particulate filter (see abstract, lines 1-9).

It would have been obvious to one having ordinary skill in the art at the time the invention was made, to have utilized the oxidation catalyst as taught by Manson in the modified Murachi system, since the use thereof would have saved the cost of a separate device for the emission control system.

4. Claims 5, 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murachi et al. (US Patent 5,746,989) in view of Deeba et al. (US Patent 6,375,910) as applied to claims 1, 10 above, and further in view of Andreasson et al. (WO 99/39809).

The modified Murachi system discloses all the claimed limitations as discussed in claims 1,10 above; however, fails to disclose that said second catalyst comprises a selective reduction catalyst. Andreasson teaches that it is conventional in the art, to utilize a second catalyst which comprises a selective reduction catalyst (see page 1, lines 22-25).

It would have been obvious to one having ordinary skill in the art at the time the invention was made, to have utilized the second catalyst comprising a selective reduction catalyst as taught by Andreasson in the modified Murachi system, for more efficiently reducing the nitrogen oxides generated during the regeneration of the particulate filter.

5. Claim 6, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murachi et al. (US Patent 5,746,989) in view of Deeba et al. (US Patent 6,375,910) as applied to claims 1, 10 above, and further in view of Khair et al. (US Patent 6,293,096).

Art Unit: 3748

The modified Murachi system discloses all the claimed limitations as discussed in claims 1, 10 above; however, fails to disclose a NOx trap positioned downstream from said oxidation catalyst. Khair teaches that it is conventional in the art, to utilize a NOx trap (22) (see Figure 1) positioned downstream from said oxidation catalyst.

It would have been obvious to one having ordinary skill in the art at the time the invention was made, to have utilized a NOx trap positioned downstream from said oxidation catalyst as taught by Khair in the modified Murachi system, since the use thereof would have improved the efficiency for the emission control system by reducing the Nox emitted from the exhaust pipe.

6. Claim 7, 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murachi et al. (US Patent 5,746,989) in view of Deeba et al. (US Patent 6,375,910) as applied to claims 1, 10 above, and further in view of design choice.

Regarding claims 7, 11, the modified Murachi system discloses all the claimed limitations as discussed in claims 1, 10 above; however, fails to disclose that said oxidation catalyst comprises from about 1 to 5 wt. % platinum on a support containing from about 3 to 20 wt. % zirconia, and the balance silica.

Regarding the composition range of the oxidation catalyst, it is the examiner's position that a composition range being 1-5%wt. platinum and 3-20 %wt. zirconia and the balance silica would have been an obvious matter of design choice well within the level of ordinary skill in the art, depending on variables such as catalyst structure and target gases to purify, etc. Moreover, there is nothing in the record which establishes

Art Unit: 3748

that the claimed parameters present a novel or unexpected result (See *In re Kuhle*, 562 F. 2d 553, 188 USPQ 7 (CCPA 1975)).

7. Claims 8, 9, 15, 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murachi et al. (US Patent 5,746,989) in view of Deeba et al. (US Patent 6,375,910) as applied to claims 1, 10 above, and further in view of Yoshimoto et al. (JP 02-056250).

Regarding claims 8, 9, 15, 16, the modified Murachi system discloses all the claimed limitations as discussed in claims 1, 10 above; however, fails to disclose said oxidation catalyst including one or more oxides selected from the group consisting of  $\text{TiO}_2$ ,  $\text{P}_2\text{O}_5$ ,  $\text{WO}_3$ ,  $\text{B}_2\text{O}_3$ , and  $\text{Al}_2\text{O}_3$ , with the addition of a heteropolyacid selected from  $\text{H}_3\text{PW}_{12}\text{O}_{40}$  and  $\text{H}_4\text{SiW}_{12}\text{O}_{40}$ .

Yoshimoto teaches that it is conventional in the art, to utilize an oxidation catalyst which includes  $\text{TiO}_2$ ,  $\text{WO}_3$ , with the addition of a heteropolyacid (see abstract).

It would have been obvious to one having ordinary skill in the art at the time the invention was made, to have utilized the composition of an oxidation catalyst as taught by Yoshimoto in the modified Murachi system, since the use thereof would have improved the performance of the oxidizing catalyst.

8. Claims 12-14, 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murachi et al. (US Patent 5,746,989) in view of Deeba et al. (US Patent 6,375,910)

Art Unit: 3748

as applied to claim 10 above, and further in view of Cooper et al. (US patent 4,902,487) and design choice.

Regarding claims 12-14, the modified Murachi discloses all the claimed limitations as discussed in claim 10 above, however, fails to disclose that said oxidation catalyst is pretreated at 500-600°C in a gas mixture containing 500 ppm NO, 3% volume O<sub>2</sub> and balance N<sub>2</sub>. Cooper teaches that it is conventional in the art, to pretreat said oxidation catalyst in a gas mixture containing 400 ppm NO, 12% volume O<sub>2</sub> and balance N<sub>2</sub> prior to positioning said catalyst in said exhaust stream (see col. 5, lines 1+).

It would have been obvious to one having ordinary skill in the art at the time the invention was made, to have pretreated said oxidation catalyst in a gas mixture as taught by Cooper in the modified Murachi system, for more efficiently improved the catalyst performance.

Regarding the exact composition of the mixture gas and temperature range for pretreating the catalyst, it is the examiner's position that the gas mixture containing 500 ppm NO, 3% volume O<sub>2</sub> and balance N<sub>2</sub> and temperature range about 500-600°C would have been an obvious matter of design choice well within the level of ordinary skill in the art, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Regarding claim 23, the modified Murachi system discloses all the claimed limitations as discussed in claim 10 above, however, fails to disclose that the oxidation of particulate occurs at a temperature less than about 300°C. Cooper teaches that it is



Art Unit: 3748

conventional in the art, to utilize an oxidation of particulate matter in the filter occurring at a temperature less than about 300°C (see col. 1, lines 36-40).

It would have been obvious to one having ordinary skill in the art at the time the invention was made, to have utilized a temperature for oxidizing particulate matters in the filter as taught by Cooper in the modified Murachi system, for more efficiently improved the filter trap performance.

9. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Twigg et al. (US Patent 6,294,141) in view of Deeba et al. (US Patent 6,375,910).

Twigg discloses a diesel exhaust gas treatment system comprising:

a first oxidation catalyst for converting at least a portion of NO contained in said diesel exhaust gas to NO<sub>2</sub> at a temperature between about 175°C to 250°C; said oxidation catalyst comprising platinum (see abstract; see col. 1, lines 61-65);

a second oxidation catalyst different from said first oxidation catalyst (see abstract); wherein said first and second oxidation catalyst are positioned in combination in the exhaust gas passage of a diesel engine (see Figure 1); however, fails to disclose said first oxidation catalyst having a support material comprising zirconia /silica and converting of NO to NO<sub>2</sub> at a temperature between about 175°C to 250°C. Deeba teaches that it is conventional in the art, to utilize an oxidation catalyst comprising platinum on a support material being zirconia-silica and having conversion at a temperature between about 79°C to 204°C (see col. 3, lines 8-17).

It would have been obvious to one having ordinary skill in the art at the time the

Art Unit: 3748

invention was made, to have utilized the first oxidation catalyst comprising the support material being zirconia-silica and having conversion temperature range, as taught by Deeba, since the use thereof is notoriously well -known in the art as a support structure for catalysts.

### ***Response to Arguments***

Applicant's arguments filed 12/17/02 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

### **Conclusion**

Any inquiry concerning this communication from the examiner should be directed

Art Unit: 3748

to Examiner Diem Tran whose telephone number is (703) 308-6073. The examiner can normally be reached on Monday -Friday from 8:30 a.m. - 5:00p.m.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas E. Denion, can be reached on (703) 308-2623. The fax number for this group is (703) 308-7763.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.

DT  
March 7, 2003



Diem Tran  
Patent Examiner  
Art unit 3748



**THOMAS DENION**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 3700**